

NOTE: This document was prepared by the Central Valley Water Board Prosecution Team.

ITEM: 10.

SUBJECT: Carlos C. Lourenco Dairy, Merced County

BOARD ACTION: Consideration of an Administrative Civil Liability (Order)

BACKGROUND:

Carlos C. Lourenco owns and operates the Carlos C. Lourenco Dairy (Dairy) in Merced County. The Dairy is regulated by Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (Reissued General Order). The Reissued General Order contains prohibitions against certain kinds of discharges including Prohibition A.4 which states “the collection, treatment, storage, discharge or disposal of wastes an existing milk cow dairy shall not result in the creation of a condition of pollution or nuisance.”

On 19 October 2017, the Dairy discharged 116,064 gallons of dairy wastewater to Black Rascal Creek, a Water of the State. Central Valley Water Board staff issued a Notice of Violation to Mr. Lourenco on 30 November 2017.

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT:

On 11 March 2019, the Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint R5-2019-0505 to Carlos C. Lourenco Dairy pursuant to California Water Code section 13350, proposing that Carlos C. Lourenco be assessed monetary penalties in the amount of \$93,594.01 for discharging dairy wastewater to Black Rascal Creek. The ACL Complaint alleges that Carlos C. Lourenco discharged dairy wastewater in violation of the Reissued General Order.

The maximum penalty for the alleged violation is \$1,160,640. The minimum penalty for the alleged violation as recommended by the Enforcement Policy is the economic benefit plus 10% which totals \$173. The Enforcement Policy’s penalty methodology was applied to this matter and resulted in a total liability of \$93,594.01 and is the amount of administrative civil liability proposed by the Prosecution Team.

ISSUES:

Carlos C. Lourenco submitted several arguments, including an argument based on his inability to pay the proposed liability to in the Discharger’s Submittal of Evidence, Legal, and Technical Arguments or Analysis. The Prosecution Team responded to these arguments in its Rebuttal Brief.

ACLO RECOMMENDATION:

The Prosecution Team recommends that the Board adopt the ACL Order for a total of \$93,594.01 as proposed.